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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/764,734

01/17/2001

Paula Ann Johnson

J3509(C)

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UNILEVER PATENT GROUP
800 SYLVAN AVENUE
AG West S. Wing
ENGLEWOOD CLIFFS, NJ 07632-3100

EXAMINER

PRYOR, ALTON NATHANIEL

ART UNIT

PAPER NUMBER

1616

NOTIFICATION DATE

DELIVERY MODE

01/27/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentgroupus@unilever.com

Office Action Summary	Application No. 09/764,734	Applicant(s) JOHNSON ET AL.	
	Examiner ALTON N. PRYOR	Art Unit 1616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-12 and 14-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-12,14-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant's arguments filed 6/23/10 have been fully considered but they are not persuasive. See argument filed below. Previous rejections and other issues not addressed below are withdrawn.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,4-12,14-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al (JP 8-53307;2/27/96) and Altmann et al. (WO 9955953; 11/4/99).

Suzuki et al. suggest a cleaning composition comprising an alkanolamine salt such as diethanolamine salt (paragraph 13) and a chelating agent such as EDTA (paragraph 20) Suzuki et al. teach that the composition is applied to clothing to guard against microbes (paragraph 1). Suzuki et al. do not teach the specific cleaning composition comprising said alkanolamine salt and said chelating agent and then applying the cleaning composition to clothing. Suzuki et al. do not teach DTPA as the chelator. However, Suzuki et al. suggest a cleaning composition comprising said alkanolamine salt plus said chelating agent. Suzuki et al. teach a method of applying cleaning compositions to clothing for purpose of guarding the clothing against microbes. Altmann et al. teach that perfumes are combined with microbicides (abstract and claims). Therefore, it would have been obvious for one having ordinary skill in the art to modify the invention taught

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by Suzuki et al. to include the perfume taught by Altmann et al. One would have been motivated to do this to ensure that the clothing treated with the antimicrobial agent carriers a pleasant odor. With respect to the chelators, EDTA would have been expected to yield similar results to DTPA in the absence of unexpected results. Thus, both EDTA and DTPA are chemically and physically equivalent having multiple carboxyl groups.

Response to Applicants' argument

Applicants argue that Suzuki et al. allows for a chelating agent such as EDTA, EDTA disodium salt, or EDTA-3-sodium salt to be optionally present. Applicants refer Examiner to paragraph 20 of Suzuki et al. to support their position. The Examiner argues that because Suzuki et al. teaches that the chelating agent is optionally added, it would have been obvious to include chelating agent as a component.

The Applicants argue that instant invention make claim to a composition comprising less than 50% by weight of water; whereas Altmann et al. teach optional water soluble low molecular weight solvent (e.g. organic solvents) can be used up to about 50%. This teaching by Altmann et al. suggest that the organic solvent can be present at 51% (note 51% organic solvent is about 50% organic solvent) which means that water could be present at 49% which is less than the 50% water limitation recited in the instant claims.

The Applicants argue that neither Suzuki et al. nor Altmann et al. disclose or suggest that chelator salts recited in the claims, i.e. there is no teaching of a chelator salt whose cation contains a protonate or quaternized amine having a C1-10 terminal

hydrocarbyl group. The Examiner argues that Suzuki et al. suggest a cleaning composition comprising an alkanolamine salt such as diethanolamine salt (paragraph 13) and a chelating agent such as EDTA (paragraph 20).

One would have been motivated to combine Suzuki et al. and Altmann et al. to ensure that the clothing treated with the antimicrobial agent carries a pleasant odor.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Telephonic Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALTON N. PRYOR whose telephone number is (571)272-0621. The examiner can normally be reached on 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter can be reached on 571-272-0646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alton N. Pryor/
Primary Examiner, Art Unit 1616